



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

April 26, 2004

Mr. Phil Mathewson
Mathewson Companies, Inc.
120 Norway Hill Road
Hancock, New Hampshire 03449

CERTIFIED MAIL (7099 3400 0003 0688 2263)
RETURN RECEIPT REQUESTED
NOTICE OF PAST VIOLATION

RE: Non-Conforming Open Burning

Dear Mr. Mathewson

On February 25, 2004, you contacted the New Hampshire Department of Environmental Services, Air Resources Division ("DES") concerning the demolition and possible burning of a number of buildings at the former Temple Mountain Ski Area in Temple, NH (the "Property"). DES personnel informed you that prior to any demolition; an inspection must be performed for the presence of asbestos containing material ("ACM"). Also, DES must be notified at least ten working days before any demolition activity is initiated. DES never received notification forms from you prior to the commencement of demolition activities.

On March 3, 2004, DES was notified by Brad Simpkins, a Forest Fire Ranger for the New Hampshire Department of Resources and Economic Development ("DRED") that a fire had occurred at the Property.

On March 3, 2004, DES personnel went to the Property to conduct an inspection in order to determine conformance with the N.H. Code of Administrative Rules, Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution*, Env-A 1800, *Asbestos Management and Control*, and RSA 125-C. DES personnel met and spoke with Mathewson site foreman Mr. Steve Pacsay, and observed and photographed the burn pile. Non-conforming material, including charred plywood and assorted metal was seen in the burn pile. As a result of the initial inspection and information gathered, DES has determined that violations occurred.

The purpose of this letter is to notify you of the violations discovered, as well as the requirements surrounding both open burning and demolition activities, so that you can prevent future violations. The specific violations are as follows:

Env-A 1001.05 outlines the type of burning that is permissible without authorization from DES. Specifically, Env-A 1001.05 (d) allows periodic on-site burning by the landowner of brush, leaves and untreated wood from the construction or demolition of a building, provided the material originates on-site. The burning of materials other than brush and untreated wood is a violation of Env-A 1000.

- Env-A 101.54 defines "brush" as tree tops, limbs, saplings and tree cuttings that are five inches in diameter or less.
- Env-A 101.286 defines "untreated wood" as any timber, board or sawn dimensional lumber, which has not been treated, coated or preserved.

Env-A 1803.03 requires that each facility operator shall provide written notification to DES, the EPA Regional office, and to the town health officer at least ten working days before any demolition activity begins. This notification shall be required regardless of the amount of ACM, if any that is contained in the facility.

- Env-A 1804.01 requires that prior to undertaking any demolition or renovation each facility operator shall provide for an inspection, by a competent person, of the affected portion of the facility for the presence of ACM.

In addition, due to the nature of the material burned in violation of Env-A 1000, you may be required to test the ash to determine the appropriate means of ash disposal. Therefore, this matter was referred to the DES Waste Management Division. Should you have any questions regarding ash sampling and analysis or disposal, please contact the Solid Waste Management Bureau at 603-271-2925. In the event that additional violations are identified, DES may take action, including issuing an administrative order, seeking administrative fines, and/or referring this matter to the New Hampshire Department of Justice for civil and/or criminal penalties.

If you believe that DES has cited these violations in error, or have questions regarding these matters, please contact Joseph Ritz at (603) 271-1391, Air Resources Division, Compliance Bureau. A current copy of the Air Resource Division rules can be obtained from the DES website at <http://www.des.state.nh.us/ard/ardrules.htm>, or by contacting the Public Information Center at (603) 271-2975.

Sincerely,



Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/jwr

Enclosure: Env-A 1001, *Open Burning*
Env-A 1800, *Asbestos Management and Control*

cc: G. Hamel, DES Legal Unit
R. Kurowski, EPA Region 1
B. Kantner, Chairman, Temple Board of Selectmen
M. Connolly, Chief, Temple Fire Dept.
B. Simpkins, DRED Forest Fire Ranger
J. Kieley, Temple Highlands LLC
M. Guilfoxy, NHDES-WMD
AFS # 3301197777